

Executive Briefing Summary

Topic: Clean Air Scientific Advisory Committee (CASAC) Sulfur Oxides Panel
Date: December 20, 2017
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PURPOSE: Present Dr. Richard Yamada options to complete CASAC reviews in support of the Sulfur Dioxide (SO₂) Primary (Health-based) National Ambient Air Quality Standard (NAAQS), and implementation of the Directive: Strengthening and Improving Membership on EPA Federal Advisory Committees for the CASAC Sulfur Oxides Panel.

ISSUES: Three issues regarding this panel require decisions needed by December 29, 2017:

1) There are 2 members of the CASAC Sulfur Oxides Panel with current EPA grants and 1 member with a cooperative agreement. A decision needs to be made whether to terminate these members or allow them to stay on for the panel's final teleconference. 2) Former Chartered CASAC members who were terminated last month are members of this panel. A decision needs to be made whether to allow them to continue on the panel or to change current procedures regarding former CASAC members. 3) A decision needs to be made regarding the new panel chair and whether to allow Dr. Ana Diez Roux to serve as Immediate Past Chair to lead the panel's completion of the draft reports.

BACKGROUND:

- The CASAC Sulfur Oxides Panel was formed in January 2014 and has provided advice on EPA technical and scientific documents supporting the Agency's review of the Sulfur Dioxide (SO₂) Primary (Health-based) National Ambient Air Quality Standard (NAAQS), including the Integrated Review Plan, two drafts of the Integrated Science Assessment, and the Risk and Exposure Assessment Planning Document.
- To date, the panel has held 8 public meetings and teleconferences and costs (travel, contracts, and salary) have totaled approximately \$300,000.
- The panel met on September 18-19, 2017, to peer review two documents, EPA's Risk and Exposure Assessment (REA) and Policy Assessment (PA). These are the final two documents that the Panel is tasked with reviewing.
- The Agency is not recommending a change to the SO₂ Primary NAAQS and during the September 2017 face-to-face meeting, the panel concurred with the Agency.
- The Agency is under a court-ordered schedule to complete the rulemaking and is awaiting final advice from the CASAC before they can proceed.
- A final teleconference to discuss the panel's draft reports and Chartered CASAC quality review is the last action to be addressed by the panel.
- Scheduling the final teleconference is pending onboarding of new Chartered CASAC members and the decisions presented in this briefing. The Agency's SO₂ NAAQS regulatory development is behind schedule due to delays in CASAC membership.
- CASAC members are appointed to panels for the duration of a panel's activities, regardless of their membership status on the Chartered CASAC.
- CASAC panels must be chaired by a Chartered CASAC member. When a panel chair's CASAC term expires, a new panel chair is appointed from the Chartered CASAC.
- When this occurs in the middle of a review (between a face-to-face meeting and the panel's

follow-up teleconference), for continuity purposes, the former panel chair assists in the development of the draft panel report and leads the panel's discussion of the draft report(s) on the teleconference in the role of "Immediate Past Chair."

DECISIONS NEEDED:

1) Options to address panel members with current EPA grants

a. Terminate panel members with current EPA grants

Pros:

- Implements new directive.
- Removing 2-3 panel members does not endanger quorum for the panel.
- Panel change does not affect Chartered CASAC .

Cons:

- These panel members have already provided advice throughout the three-year process, including providing advice on the REA and PA.
- The EPA Deputy Ethics Official determined that the panel members do not have any financial conflicts of interest or an appearance of a loss of impartiality. These determinations were made at the start of each of the peer review activities and announced at each of the 8 public meetings.
- The agency may be vulnerable to litigation if these panel members are terminated. Applying the new directive to an existing panel may lead stakeholders to question the determinations made by the Deputy Ethics Official and whether the advice provided by the panel over the past three years is tainted. This may leave the Agency legally vulnerable in their SO₂ NAAQS rulemaking.
- Cooperative agreements are not mentioned in the new directive. A decision is needed whether to terminate the panel member with a cooperative agreement.

b. Allow panel members with current EPA grants to stay on the panel for the final teleconference (preferred option)

Pros:

- Allows panel to expeditiously finalize the reports and CASAC to transmit the advice to the Administrator.
- Would not call into question the independence of previous CASAC advice
- Limits/reduces stakeholder confusion on status of previous CASAC advice and opportunity to challenge EPA rulemaking.

Con:

- Creates delays in the implementation of the Directive and possible consistency issues for other panels (CASAC NO_x/SO_x Secondary and CASAC PM panels)

2) Options to address former Chartered CASAC members (Dr. Donna Kenski and Dr. Ronald Wyzga)

a. Terminate former Chartered CASAC members from the panel

Pros:

- Avoids possible confusion from the public on why terminated Chartered CASAC members are still serving on CASAC panels.

Cons:

- Terminating former CASAC members appointed to panels would deviate from current procedure and standard practice. A clear rationale and reasoning for change would need to be established.
- Deviation from current procedure and standard practice may lead to confusion among CASAC panels, EPA, and the public.
- Loss of key panel personnel. These members were lead authors for several sections of the draft reports. It would be difficult to reassign their duties to other panel members at this stage. This may lead to delays in finalizing the reports.
- Delays in finalizing CASAC advice will further delay the agency's ability to meet court ordered deadlines.

b. Allow former Chartered CASAC members to continue serving on the panel (preferred option)

Pros:

- Consistent with current procedure and standard practice.
- Continuity in service would allow the panel to quickly finalize their reports and allow the agency greater time to meet court ordered deadlines.

Cons:

- May lead to confusion from the public on why terminated CASAC members are still serving on CASAC panels.

3) Options to appoint a new panel chair

a. Appoint Dr. Tony Cox as the CASAC Sulfur Oxides Panel Chair and terminate Dr. Ana Diez Roux from the panel

Pros:

- Avoids possible confusion on why Dr. Diez Roux is still serving on CASAC panels when her CASAC term expired.

Cons:

- May lead to delays in finalizing the panel reports due to Dr. Cox not being involved with the face-to-face meeting as well as the panel's past three years of service. Delays in finalizing CASAC advice will further affect the agency's ability to meet the court ordered deadline.
- Deviates from current procedure and standard practice and a clear rationale would need to be provided for termination and the change in past practice.

b. Appoint Dr. Lianne Sheppard as the CASAC Sulfur Oxides Panel Chair

and terminate Dr. Ana Diez Roux from the panel

Pros:

- Dr. Sheppard has experience chairing CASAC panels and has been on the CASAC Sulfur Oxides panel for the past three years, providing continuity of service.
- Would allow the panel to quickly finalize their reports and for the CASAC to transmit their advice to the agency.

Cons:

- Termination of Dr. Diez Roux from the panel deviates from current procedure and standard practice and a clear rationale would need to be provided for termination and the change in past practice.

c. Appoint Dr. Tony Cox as the CASAC Sulfur Oxides Panel Chair and allow Dr. Ana Diez Roux to remain on the panel as Immediate Past Chair (preferred option)

Pros:

- Consistent with current procedure and standard practice.
- Would allow the panel to quickly finalize their reports and for the CASAC to transmit their advice to the agency.

Cons:

- May create confusion on why Dr. Diez Roux is still serving on CASAC panels when her CASAC term has expired.